

Minutes of the Veneta City Council November 10, 2005

Present: Mayor Brooker, Darrell Carman, Thomas Cotter, Fred Miller, and Marion Esty

Others: Ric Ingham, City Administrator; Margaret Boutell, Community Services Director; Brian Issa, Associate Planner; Sheryl Hackett, City Recorder; Jim Bruvold & James Eagle-Eye, Veneta Planning Commission; Heather Hill, Lane County Fire District No. 1; Bill Kloos; ; and Jeneca Jones

Council President Fred Miller called the Veneta City Council to order at 7:01 p.m.

1. PUBLIC COMMENT (for items not on the agenda): None

2. PUBLIC HEARING

TIMBERLINE PROPERTIES LLC APPEAL (A-1-05) - Appeal filed on two of the conditions of approval in the Final Order of the Veneta Planning Commission for Site Plan review (SR-8-05) for five 4-plex buildings for property located at 25160 E. Broadway; Veneta, OR (Assessors map 17-05-31-23, tax lot 1600)

a. Open Hearing:

Mayor Brooker opened the public hearing at 7:03 p.m. He advised the public that the applicant has withdrawn his appeal of the condition for fire access. The only issue under appeal is regarding the preservation of trees.

b. Declaration of Conflict of Interest or Ex-Parte Contacts: None

c. Staff Report (Brian Issa, Associate Planner)

Brian advised the Council that the Planning Commission approved a Site Plan for a multi-family development at 25160 E. Broadway subject to conditions of approval. The applicant appealed two of the conditions, one to preserve trees and one to address emergency access. The applicant has withdrawn his request to the condition for emergency access; therefore, the only issue that will be addressed at the public hearing is the issue of tree preservation.

In response to a request from Mayor Brooker, the applicant will be submitting a written request to withdraw his appeal to the condition for emergency access.

There are a number of trees located on the site, three which may qualify as heritage trees and several other large trees. The applicant's original site plan indicated that all the existing trees would be removed. The applicant has provided the City with a revised drawing that shows existing trees that will be preserved, including trees along the south edge of the property, a large tree next to the driveway, and a few small trees throughout the site.

The site plan was approved by the Planning Commission with a condition to

protect all trees greater than 24" in diameter. The applicant has appealed that condition. Staff has recommended amending the condition to require the applicant to obtain a tree removal permit. Staff's recommendation is based on the opinion of the City Attorney that the specific criteria for tree cutting is in the City's tree ordinance, not in the land development ordinance. In response to a question from Thomas Cotter, Brian said the determination of which trees should be preserved will be made during the tree removal permit process.

d. Public Testimony

Bill Kloos; 375 W. 4th, Suite 204; Eugene, OR

Mr. Kloos said he represents the applicant and formally asked to withdraw the appeal of the emergency access condition and focus only on the tree issue. He said they concur with the staff report to replace the condition of approval to preserve trees with a condition to deal with the trees through the tree cutting permit process. He said his client has provided staff with a revised site plan showing the trees he expects to save during the tree permit process. He said the drawing has been provided for information only and they are not asking for it to be incorporated into the record.

He said the provision in Veneta's land Development Ordinance 417, Section 5.12(3) to protect existing trees to the fullest extent possible needs to be interpreted consistent with state law which allows development of housing up to the density allowed by the base zone in which the property is located. He said his client would need to reduce the number of housing units to protect all existing trees.

Nick Delperdang; 25142 E. Broadway; Veneta, OR

Mr. Delperdang said he believes the City ordinances supercede state law. He said the developer asked to remove all of the trees on the site. Mr. Delperdang said he worked as a logger for most of his life and from his experience he believes it will take over 40 years for new trees to match the existing trees. He said the neighbors do not want the trees cut and the Planning Commission doesn't want them cut. Mr. Delperdang asked the Council to stand behind the decision made by the Planning Commission.

Cathy Coulson-Keegan; 25130 E. Broadway Avenue; Veneta, OR

Ms. Coulson-Keegan said she had an Arborist look at the trees last week and he identified the singular large tree as a native big leaf maple, also known as the Oregon maple. He said that species of tree may live for 800 years. He said the tree is well formed and in excellent health. He said the large Ponderosa pine is also in excellent health. The majority of the other trees are on the perimeter. He said some of the evergreens on the eastern perimeter are not well. She said it appears to her that by building from edge to edge, the developer is trying to make the lot fit the plan rather than the plan fit the lot.

Bill Wright; 25130 E. Broadway; Veneta, OR

Mr. Wright said all of the trees on the site are located along the perimeter or front

of the property and allow plenty of space for buildings. He said the only reason the applicant has to cut trees is because he has designed row-style buildings which will create a sterile ghetto look. He said Veneta's Land Development Ordinance is written to protect Veneta from that type of development. He said the city has to live for generations with what the builder creates. He asked the City to require the builder to develop something that will enhance the community, not create blight.

Mona Linstromberg; 87140 Territorial Road; Veneta, Or

Ms. Linstromberg said Section 5.12(3) of the Land Development Ordinance clearly states that all "existing trees, plant material, and special features be preserved to the fullest extent possible with particular attention to focus on preserving native and heritage trees". She said that criteria is intended to protect Veneta's scenic beauty.

She said there has been no supporting evidence as to population projections and the current need for housing. She said she objects to building at a density that necessitates destroying more of Veneta's natural resources. She said Veneta's tree permit may not give adequate protection for the trees and she asked the Council to deny the applicant's appeal.

Jan Wilson; 1260 Peasant Street; Eugene, OR

Ms. Wilson said she is an attorney representing the E. Broadway Neighbors. She said the testimony at the Planning Commission meeting centered on high quality multi-family residential development. She said she felt the Planning Commission did a good job of addressing the concerns expressed at that hearing. She said they have not had a chance to review the applicant's updated drawings; therefore, she asked for the record to be held open so they could respond to whether or not they feel the applicant has preserved trees to the fullest extent possible. Ms. Wilson addressed the testimony from Bill Kloos about needed housing by stating that needed housing does not mean low income housing should be ugly. She said it is difficult to be clear and objective when regulating aesthetics. She said the purpose of Veneta's standard for protecting trees goes beyond aesthetics to protecting against pollution and preserving wildlife habitat. She said the language is very clear and objective.

Craig Harbison; 87140 Territorial Road; Veneta, OR

Mr. Harbison prepared written comments regarding the appeal to the fire access condition. Although the appeal was withdrawn, he submitted his written comments for the record.

Planning Commissioner Jim Bruvold

Jim Bruvold said the Planning Commission heard arguments on both sides of the issue and deliberated for several hours before making their decision.

Planning Commissioner James Eagle-Eye

James Eagle-Eye said they made their decision based on what was presented by the applicant, what the Veneta Code requires, and what they felt was best for the City. He said they determined there were trees on the property worth saving and

placed a condition on their approval that fits the language in the code.

Bill Kloos (Rebuttal)

Mr. Kloos asked the Council for clarification on whether the record will be held open for an additional period of time. He said he wanted to make it clear that the applicant's revised drawing is not a modification of his original proposal, he is just trying to give the Council a clearer understanding of what he was asking for. He said his client would not object to leaving the record open for 7 days; however, he would want the opportunity to comment on any written materials submitted.

In response to Ms. Wilson's comments on needed housing, Mr. Kloos said Ms. Wilson talked about clear and objective standards only for aesthetics. He said there is another part of the statute that talks about clear and objective standards for needed housing not to be limited to appearance and aesthetics. He said the Council should feel comfortable that with the tree permit a lot of trees will be saved.

In response to a question from Jan Wilson, Brian said if the record is left open, the 120 day rule will run out on Sunday. The applicant has not waived that. He said the statute states a request to hold the record open can be requested prior to the initial hearing. In this case, the record was held open and the Council hearing is not the initial hearing.

e. Questions from the Veneta City Council

Mayor Brooker said the Council has not received any new evidence; therefore, the record will not be held open.

f. Close of Public Hearing: Mayor Brooker closed the public hearing at 7:37 p.m.

g. Deliberation and Decision

In response to a question from Thomas Cotter, Mayor Brooker explained that a decision about the trees will not be made until the tree cutting permit has been submitted for review. Brian Issa said the City Attorney feels the implementation of Section 5.12(3) for preserving trees to the fullest extent possible, is done by clear and objective standards through the tree ordinance.

In response to a question from Darrell Carman about how the Planning Commission came up with the 24" tree as a standard, Jim Bruvold explained they felt the 24" size would protect the larger trees and allow for the smaller trees to be removed. James Eagle-Eye said they determined that the larger trees were the more valuable trees. He said they looked at the site and determined there were a variety of trees with regard to size and species and they looked for the middle ground to determine what was a special site feature.

Darrell Carman said he felt it could be more of a design issue rather than a code issue. He said in many cases trees have to be removed only because the developer

does not want to spend more money to design around trees.

In response to a question from Mayor Brooker about the condition of approval to employ the services of a certified Arborist, Mr. Waggoner said an Arborist has prepared a report.

Mr. Kloos said the revised plan reflects what is in the Arborist's report.

Mayor Brooker said the tree cutting permit will need to address the information in the Arborist report. He said the revised drawing is not part of the record and the Council will need to make a decision based on the recommendations from staff, the Planning Commission, and City ordinances.

Mr. Kloos said the Council could use the revised drawing from the applicant to condition the preservation of trees shown on the revised plan.

Mayor Brooker closed the questions from the Council at 8:48 p.m. and called for deliberations.

Thomas Cotter said as a Council they need to make decisions based on what is best for the City, not for the individual property owner or individual neighbor. He said if the ordinance allows for multi-family housing it should be allowed. He said they cannot make it harder for someone simply because they do not like what they are doing. He said if they need to change the rules, they should change the rules for future applications.

Darrell Carman said he is an architect by trade and it is not unusual for him to be told he has to redesign a building to deal with special issues or meet some requirements. He said there are a number of other ways the buildings could be configured to preserve more trees. He said building a box is the easiest way to build; however, it's not the only way.

Fred Miller said he agrees it would be better to address the tree issue through the tree felling permit process.

Marion Esty said the City is still struggling with the ordinances not always addressing the immediate issues. She said she agrees there is a need for affordable housing.

Fred Miller said when the tree ordinance was drafted they knew they wouldn't be able to save every tree.

Darrell Carman said he felt the Planning Commission was being very diligent. He said they didn't require all trees to be saved, only those of 24" or larger in diameter.

In response to a question by Thomas Cotter, Brian said the City Attorney advised that limited land use decisions cannot be based on the Comprehensive Plan. She

said specific criteria to address those policies need to be adopted into the Veneta Land Development Ordinance.

Thomas Cotter said the intent of the tree ordinance was to discourage clear cutting. He said lots with trees are more valuable.

Mayor Brooker said the Council has to make its decision based on the language in the current ordinances. He said the Planning Commission spent a good deal of time and effort trying to understand the issues and decide which trees should be saved. He said the city has an ordinance in place to save significant trees and he agrees with Darrell's comments that there are other ways to design the multi-family housing unit to meet that goal.

Mayor Brooker said he sees no need to change the Planning Commission's conditions at this time. He said it meets the goals of the City to preserve as many trees as possible. He said the testimony supports the fact most of the trees are viable and on the border of the property.

MOTION: Mayor Brooker made a motion to deny the appeal and to reaffirm the Planning Commission's decision. Darrell Carman seconded the motion.

Discussion: Brian Issa said the applicant and opponents do not agree on what defines "fullest extent possible". He said the City Attorney felt that section 5.12(3) should be implemented through the tree cutting ordinance. He said any tree that meets the definition of a heritage tree is subject to a separate permit.

Margaret said the City Administrator can, at his or her discretion, refer the tree felling permit to the Planning Commission.

Thomas Cotter said he does not think 24" in diameter is fair and should not be the standard.

Mayor Brooker said based on the testimony by staff he withdraws his motion. He said he feels they need to revise the tree ordinance and establish some better standards.

MOTION: Mayor Brooker made a motion to approve the amendments to the final order for Timberline as proposed by staff, requiring the applicant to apply for a tree felling permit. Marion Esty seconded the motion.

Discussion: Marion said the intent of the tree ordinance is to try and preserve trees and she feels they need to make the language more clear. Mayor Brooker and Thomas Cotter both said the standards and criteria on which the Planning Commission has to make their

decisions needs to be more clear

VOTE: 4-1 (Darrell Carman voted no)

After the vote, Planning Commissioner James Eagle-Eye said he would like the Council to look at the tree felling criteria in the Veneta Municipal Code Chapter 8.10. He said the code only has language regarding the process of cutting trees down. With the exception of defining a heritage tree, he said there is no language in the code for preserving trees. He said in their approval the Planning Commission looked at what is best for the City and based the condition for preserving trees on Section 5.12 of the Land Development Ordinance. He said he is concerned that by the time the City has a chance to address everything in the code that should be changed, all the development will be done. He said the language for protecting trees is in the Land Development Ordinance, not the tree cutting ordinance.

Mayor Brooker agreed that some amendments can be made. He said they should add some language to the tree ordinance which talks about what types of trees the City wants to preserve.

3. STRATEGIC PLANNING VISIONING PROCESS

a. Discussion

At their last Goal Setting session the City Council expressed a desire to do some visioning for the Fern Ridge Community. Ric advised the Council that Rural Development Initiatives (RDI) has agreed to facilitate a Visioning Strategic Planning meeting on Wednesday, November 16, 2005. A group of stakeholders has been invited to engage in a discussion to see if there is a way to better define what the community wants for the future of the City. Although it is not a Council meeting and the Council will not be making any decisions, the meeting will be published as a public meeting because there is a potential for a quorum of the Council to be in attendance. In order for RDI to effectively facilitate the meeting, they will try to limit the discussion to the people who have been invited. Ric said the list of stakeholders was compiled from a list of people who participated in the 1995 visioning process, people who attended the Region 2050 meetings and expressed interest, and people from the local educational, social, and environmental groups.

Ric asked the Council to personally contact the list of stakeholders to encourage their participation. He said the visioning should be a community project, not a City project. Mayor Brooker volunteered to contact the fire board, Darrell Carman and Thomas Cotter volunteered to contact stakeholders associated with the schools, Fred Miller and Marion Esty volunteered to contact the library and social services stakeholders.

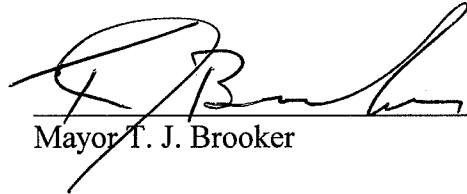
Ric reminded the Council that the Council is scheduled for a work session on Monday, November 14, 2005 at 5:30 p.m.

Thomas Cotter suggested that the City Attorney be present for any future appeals to give

them procedural advice.

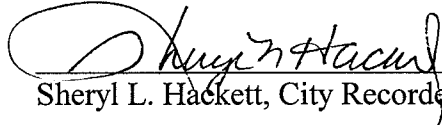
4. **ADJOURN**

Mayor Brooker announce that City Hall will be closed on Veteran's Day. He adjourned the City Council at 8:35 p.m.



Mayor T. J. Brooker

ATTEST:



Sheryl L. Hackett, City Recorder